

REMARKS

The following remarks are responsive to the Final Office Action of July 16, 2009, the telephone interview conducted with the Examiner on September 22, 2009, and the Interview Summary, mailed September 24, 2009. At the time of the Office Action, claims 1–29 were pending.

- **Claim 29** was indicated as **allowed**;
- The **Specification** was **objected** to;
- **Claim 13** was **objected to** as containing redundant subject matter;
- **Claims 13 and 22–24** were **objected** to based on various formatting informalities;
- **Claims 1, 24, and 25** were rejected under **35 U.S.C. § 112, second paragraph**, s being indefinite;
- **Claims 1–23 and 28** were rejected under **35 U.S.C. §101** as being directed to non-statutory subject matter;
- **Claims 1, 2, 7–12, 15, 16, 21, 22, and 24–28** were rejected under **35 U.S.C. § 103(a)** as obvious over **Gao**, et al.(U.S. Patent No. 6,581,032, hereinafter Gao) in view of **Kolesnik**, et al. (U.S. Patent No. 5,729,655, hereinafter Kolesnik);
- **Claims 3–6** were rejected under **35 U.S.C. § 103(a)** as obvious over **Gao** in view of **Kolesnik**, and further in view of **Carter**, et al. (U.S. Patent No. 5,987,506, hereinafter Carter).
- **Claims 14 and 23** were rejected under **35 U.S.C. § 103(a)** as obvious over **Gao** in view of Kolesnik, and **Jabri** et al. (U.S. Patent No. 6,829,579, hereinafter Jabri).
- **Claims 17–20** were rejected under **35 U.S.C. § 103(a)** as obvious over Gao in view of **Jabri** et al., and further in view of **Aguilar** et al. (U.S. Patent No. 7,272,556, hereinafter Aguilar).

Applicants thank the Examiner for the courtesy extended during the telephone interview conducted with the Applicants' representative, for the Examiner's extended efforts

in working with Applicants to resolve outstanding issue on the present application, and for the indication of allowable subject matter.

Applicants have amended claims 1, 13, 22–25, 27, and 29, and have provided discussion below for addressing the Examiner's bases for objecting to and rejecting the claims in the application.

OBJECTIONS TO THE SPECIFICATION

1. Applicants have amended the Specification to include a full description for the acronym TDAC.

In the Office Action, on p. 4, the Examiner objected to the Specification as not providing a full definition for the acronym TDAC. Applicants have amended the Specification to indicate that TDAC stands for time domain aliasing cancellation. This definition does not constitute the introduction of new matter and consists of a definition that is well known to one of skill in the art in this specific field.

Based on the amendment to the Specification, Applicants respectfully request that the objection to the Specification be withdrawn.

OBJECTIONS TO CLAIMS 13 AND 22–25

2. Applicants have amended claims 13 and 22–25 to address the informalities noted by the Examiner.

In the Office Action, on pp. 4–5, the Examiner noted a number of informalities and suggested corrections for addressing these. Applicants thank the Examiner for noting these informalities and have amended the claims in the manner suggested by the Examiner.

Namely, claim 13 has been amended to remove superfluous claim elements. The italics *a posteriori* has been corrected to a normal Roman font. In claim 24, the claim preamble has been demarcated with a colon. Finally, spurious double spacings have been removed from claim 25.

Since all of the issues serving as a basis for the Examiner's objections to these claims have been addressed in the manner suggested by the Examiner, Applicants respectfully request that the claim objections be withdrawn from the application.

35 U.S.C. § 112, SECOND PARAGRAPH INDEFINITENESS OF CLAIMS 1, 24, AND 25

3. Applicants have amended claims 1, 24, and 25 to cover actions corresponding to both situations where the rate of the coder(s) operate at a same and a different rate than the common functional unit.

In the Office Action, on p. 5, the Examiner rejected claims 1, 24, and 25 as being indefinite for failing to point out what is included or excluded by the claim. Applicants have added steps that occur in the method for both cases of the coders operating at a same and a different rate than the rate of a common functional unit.

Based on similar amendments presented to the Examiner during the interview with the Examiner, the Examiner indicated in the Interview Summary that this was sufficient to address the 35 U.S.C. § 112 rejection. Thus, Applicants respectfully request that this rejection be formally withdrawn from the application.

35 U.S.C. § 101 NON-STATUTORY SUBJECT MATTER OF CLAIMS 1–23, AND 28

4. Applicants have incorporated a processor into an independent method step that is not simply a pre- or post-solution activity. The method claims are now directed to a statutory class of machine.

In the Office Action, on pp. 5–7, the Examiner rejected claims 1–23 and 28 as for being non-statutory.

Based on the comments made by the Examiner in the Office Action and during the Interview, Applicants have amended the independent method claims to incorporate a processor to one of the affirmative method steps that do not constitute mere pre- or post-solution activities and thus the claims are now directed to a proper statutory class of “machine”.

Based on these amendments, Applicants respectfully request that the 35 U.S.C. § 101 rejection be withdrawn from the application.

35 U.S.C. § 103 OBVIOUSNESS OF CLAIMS 1, 2, 7–12, 15, 16, 21, 22, AND 24–28 OVER GAO IN
VIEW OF KOLESNIK

In the Office Action, on pp. 8–10, the Examiner rejected claim 1 as being obvious over the combination of Gao and Kolesnik.

Based on a proposed amendment similar to the amendment in the present application and discussion with the Examiner during the Interview, the Examiner indicated in the Interview Summary that:

The rejections under Gao are withdrawn in view of the argument that Gao does not disclose a parallel processing for rate selection.

Independent claims 24 and 25 have been amended to include a similar limitation added to claim 1, and are therefore allowable for the same reason, as are claims 2, 7–12, 15, 16, 21, 22, and 26 that depend from one of these independent claims. Applicants therefore request that the Examiner formally withdraw the 35 U.S.C. § 103 rejection from these claims of the present application.

5. The combination of Gao and Kolesnik fail to teach or suggest the feeding of the input signal in parallel to the apparatus comprising the plurality of coders as claimed in claim 27.

In the Office Action, on pp. 23–26, the Examiner rejected claim 27 as being obvious over the combination of Gao and Kolesnik. In relevant portion, the Examiner indicated, on p. 23, that Gao teaches feeding an input signal in parallel to an apparatus comprising a plurality of coders, each including a succession of functional units for compression coding of the signal by each coder.

With regard to the claim element that the input signal is fed in parallel to the first and second coder, Applicants respectfully assert that the per-frame processing of Gao would meet this limitation, since only one of Gao's coders is active at the same time. The disclosure of Gao at 10:12–20 is confusing in that box 44 determines a rate, and then activates one of the rate encoders 36–42, which in turn activates one of the initial frame processing modules 46–52. However, only one signal is provided at the input of box 44 (which does not meet the claim requirement of parallel feeding). By the time the signal is split in this figure to feed

modules 46-52, then according to Gao, only one of the modules 46–52 and rate encoders 36–42 is active (again, which does not meet the claim requirement of parallel feeding).

For this reason, independent claim 27, and claim 28 that depends therefrom, is not obviated by the combination of Gao and Kolesnik, and Applicants respectfully request that the Examiner withdraw this rejection from claims 27 and 28 as well.

35 U.S.C. §103(A) OBVIOUSNESS OF REMAINING CLAIMS 3–6, 14, 17–20, AND 23 OVER GAO IN VIEW OF SOME COMBINATION OF KOLESNIK, CARTER, JABRI, AND AGUILAR

6. Applicants rely upon the above arguments with respect to the remaining claims and, and asserts that none of the additional references supplants the deficiencies identified above with respect to Gao.

In the Office Action, on pp. 26–41, the Examiner combined Gao with various combinations of Kolesnik, Carter, Jabri, and Aguilar in establishing an obviating combination of references for various dependent claims in the present application. Without addressing the specifics of the additional references on the merits, Applicants rely upon the above arguments and assert that the disclosures of each of these additional references, alone or in combination, do not serve to solve the deficiencies of the Gao reference with regard to the amended claims. The Examiner has cited these references for purposes related to the specifics of the dependent claims.

For these reasons, Applicants respectfully request that the Examiner withdraw these 35 U.S.C. §103 rejections from the application.

In re Appln. of Virette et al.
Application No. 10/582,025
RCE and Response to Office Action of July 16, 2009

CONCLUSION

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

Respectfully submitted,

/brian c. rupp/

Brian C. Rupp, Reg. No. 35,665
Mark Bergner, Reg. No. 45,877
DRINKER BIDDLE & REATH LLP
191 N. Wacker Drive, Suite 3700
Chicago, Illinois 60606-1698
(312) 569-1000 (telephone)
(312) 569-3000 (facsimile)
Customer No.: 08968

Date: October 15, 2009

CH01/ 25397907.1